UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL OGLE,

Defendant.

NO. CR-03-212-RHW

ORDER GRANTING THE GOVERNMENT'S MOTION FOR RECONSIDERATION

Before the Court is the Government's Motion for Reconsideration Re Order Striking Briefing Schedule and Closing File and to Hold a Hearing in Order to Determine if the Defendant's Sentence Would Have Been Materially Different, and If Necessary, to Re-sentence the Defendant (Ct. Rec. 76).

On December 28, 2005, the Court entered an order striking the briefing schedule because Defendant had filed a statement indicating that he did not want to be re-sentenced. The Government asks the Court to allow the parties to address whether Defendant's sentence would have been materially different under the now advisory Guideline sentencing regime.

Accordingly, IT IS HEREBY ORDERED:

1. The Government's Motion for Reconsideration Re Order Striking Briefing Schedule and Closing File and to Hold a Hearing in Order to Determine if the Defendant's Sentence Would Have Been Materially Different, and If Necessary, to Resentence the Defendant (Ct. Rec. 76) is **GRANTED**.

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- 2. Richard Wall shall continue to represent Defendant in the limited remand proceedings.
- 3. Counsel shall file briefing, on or before **February 18, 2006**, addressing whether the sentence imposed would have been materially different had the Court known the United States Sentencing Guidelines were advisory.
- 4. A hearing on this matter is set **without** oral argument for **February 20**, **2006**.

IT IS SO ORDERED. The District Court Executive is directed to enter this order and to provide copies to counsel.

DATED this 31st day of January, 2006.

s/ Robert H. Whaley

ROBERT H. WHALEY Chief United States District Judge